



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

MICHAEL DANIELS, JR.,	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 8:15-cv-05025-MGL
	§	
WARDEN OF PERRY CORRECTIONAL	§	
INSTITUTION,	§	
Respondent.	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THE PETITION PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 41(B)

This case was filed as a 28 U.S.C. § 2254 petition. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Petitioner's petition be dismissed pursuant to Federal Rule of Civil Procedure 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 28, 2016, but Petitioner failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Petitioner’s petition is **DISMISSED** pursuant to Federal Rule of Civil Procedure 41(b). Hence, Respondent’s motion for summary judgment is **DEEMED AS MOOT**.

IT IS SO ORDERED.

Signed this 31st day of August, 2016, in Columbia, South Carolina.

s/ Mary G. Lewis

MARY G. LEWIS

UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.